

CHAPTER 430

GOVERNMENT - LOCAL

SENATE BILL 19-260

BY SENATOR(S) Zenzinger and Cooke, Bridges, Ginal, Pettersen, Tate, Todd;
also REPRESENTATIVE(S) Tipper and Larson, Bird, Caraveo, Duran, Gray, Herod, Hooton, Kipp, Melton, Titone.

AN ACT**CONCERNING ENTRY INTO THE FIRE AND POLICE PENSION ASSOCIATION FOR SOCIAL SECURITY EMPLOYERS.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 31-31-704.5, **amend** (1), (2), (3), (5), and (6); and **amend as amended by Senate Bill 19-106** (4) as follows:

31-31-704.5. Entry for social security employers. (1) (a) (I) Notwithstanding the exemption provided in section 31-31-401 (1)(a), any employer that covers members under the federal "Social Security Act", as amended, or any county that covers salaried employees under the federal "Social Security Act", as amended, whose duties are directly involved with the provision of law enforcement or fire protection as certified by the county may elect coverage under the social security supplemental plan established pursuant to section 31-31-704.6 by filing a resolution of affiliation with the board pursuant to subsection (2) of this section. Election of coverage under the plan shall be irrevocable.

(II) THE BOARD MAY ALLOW AN EMPLOYER ELIGIBLE FOR PARTICIPATION IN THE SOCIAL SECURITY SUPPLEMENTAL PLAN PURSUANT TO SUBSECTION (1)(a)(I) OF THIS SECTION TO ALTERNATIVELY ELECT TO PARTICIPATE IN ONE OR MORE OF THE PLANS WITHIN THE DEFINED BENEFIT SYSTEM WITH FULL BENEFITS AND UNREDUCED CONTRIBUTION RATES. SUCH PARTICIPATION SHALL BE AS PROVIDED BY RULES ADOPTED BY THE BOARD. THE BOARD MAY DETERMINE A CONTINUING RATE OF CONTRIBUTION FOR ALL MEMBERS WHO ARE ACTIVE ON THE EFFECTIVE DATE OF COVERAGE TO FUND BENEFITS AS MAY BE NECESSARY TO ENSURE THAT THE AFFILIATING EMPLOYERS' COVERAGE SHALL NOT HAVE AN ADVERSE FINANCIAL IMPACT ON THE ACTUARIAL SOUNDNESS OF THE PLAN.

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(b) A county electing to affiliate with the ~~social security supplemental plan~~ ASSOCIATION shall make such election through the county's governing board. For purposes of administering to counties affiliated pursuant to this section, any county electing to affiliate shall be included in the definition of "employer", as defined in section 31-31-102 (3), and any covered employee of such county shall be included in the definition of "member", as defined in section 31-31-102 (4).

(2) The employer's resolution applying for coverage ~~under the social security supplemental plan~~ BY THE ASSOCIATION shall first be adopted by the governing body of the employer and shall state the employer's intent to cover its members under the plan.

(3) Any application for coverage ~~under the social security supplemental plan~~ BY THE ASSOCIATION shall be approved by at least sixty-five percent of all active members employed by the employer at the time of the application who vote in the election proposing the coverage; EXCEPT THAT NO SUCH ELECTION SHALL BE REQUIRED IF:

(a) THE EMPLOYER ALLOWS MEMBERS TO ELECT TO REMAIN IN A PREDECESSOR PLAN PURSUANT TO ASSOCIATION RULES OR IF THE MEMBERS HAVE APPROVED LEAVING A PREDECESSOR PLAN PURSUANT TO SECTION 24-54-106 (3); AND

(b) THE EMPLOYER DESIGNATES THAT ALL FUTURE ELIGIBLE EMPLOYEES WILL PARTICIPATE IN A PLAN OF THE ASSOCIATION.

(4) The board shall promulgate rules relating to standards for disclosure of all ramifications and procedures for obtaining member approval pursuant to subsection (3) of this section. The board shall also promulgate rules relating to standards for granting an employer's application for participation in the ~~social security supplemental plan~~ and for the submission of information to the board by the employer. The rules shall contain a provision specifying that an employer that opts to participate in the plan FOR COVERAGE BY THE ASSOCIATION shall not be permitted to opt out of the plan COVERAGE at any later date. The board may adopt a rule RULES allowing an eligible individual active employee of an affiliating department to elect to remain in a predecessor plan and not be covered under the ~~social security supplemental plan~~ HAVE COVERAGE BY THE ASSOCIATION.

(5) An application for coverage ~~under the social security supplemental plan~~ BY THE ASSOCIATION filed by an employer shall include the employer's certification to the board:

(a) That all ~~active~~ fire and law enforcement employees WHO ARE ACTIVE AT THE TIME OF AFFILIATION, EXCEPT THOSE THAT HAVE ELECTED TO REMAIN IN A PREDECESSOR PLAN AS MAY BE ALLOWED BY RULE, AND ALL FIRE AND LAW ENFORCEMENT EMPLOYEES WHO ARE HIRED AFTER AFFILIATION as certified by the employer, will become participants in the ~~social security supplemental plan~~ and the election to participate in the plan is irrevocable; and

(b) That the employer agrees to participate in the ~~social security supplemental plan~~ and to be bound by the terms of the plan and the decisions and actions of the board with respect to the plan.

(6) An employer that ~~participates in the social security supplemental plan established~~ AFFILIATES WITH THE ASSOCIATION pursuant to ~~section 31-31-704.6~~ THIS SECTION shall not be prohibited from participating in other governmental pension or benefit plans to the extent allowed under the federal "Internal Revenue Code of 1986", as amended.

SECTION 2. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 3, 2019